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EXTRAORDINARY

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PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 26th February, 1992:—

Bill No. XV-F of 1992

A Bill further to amend the Representation of the People Act, 1951.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Representation of the People (Amendment) Act, 1992.

(2) It shall be deemed to have come into force on the 4th day of January, 1992.

43 of 1951.

2. In the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), for section 52, the following section shall be substituted, namely:—

52. If a candidate, set up by a recognised political party.—

(a) dies at any time after 11 A.M. on the last date for making nominations and his nomination is found valid on scrutiny under section 36; or

Short title and commencement.

Substitution of new section for section 52.

Death of candidate before the poll.

(b) whose nomination has been found valid on scrutiny under section 36 and who has not withdrawn his candidature under section 37, dies,

and in either case, a report of his death is received at any time before the publication of the list of contesting candidates under section 38; or

(c) dies as a contesting candidate and a report of his death is received before the commencement of the poll,

the returning officer shall, upon being satisfied about the fact of the death of the candidate, by order, countermand the poll and report the fact to the Election Commission and also to the appropriate authority and all proceedings with reference to the election shall be commenced anew in all respects as if for a new election:

Provided that no order for countermanding a poll should be made in a case referred to in clause (a) except after the scrutiny of all the nominations including the nomination of the deceased candidate:

Provided further that no further nomination shall be necessary in the case of a person who was a contesting candidate at the time of the countermanding of the poll:

Provided also that no person who has given a notice of withdrawal of his candidature under sub-section (1) of section 37 before the countermanding of the poll shall be ineligible for being nominated as a candidate for the election after such countermanding.

Explanation.—For the purposes of this section, “recognised political party” means a political party recognised by the Election Commission under the Election Symbols (Reservation and Allotment) Order, 1968.’

Repeal
and
Saving.

3. (1) The Representation of the People (Amendment) Ordinance, 1992, is hereby repealed.

Ord. 1 of
1992.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

Section 52 of the Representation of the People Act, 1951 provided for the countermanding of a poll on the death of a candidate. Due to the rise of terrorism and violence in certain parts of the country combined with the phenomenal increase in the number of independent candidates, the danger of disruption of the election process had increased. One of the measures suggested to prevent such disruption and danger to the lives of independent candidates, who are an easy prey to terrorism, was to amend the aforesaid provision so as to restrict the countermanding of election only to the death of a candidate belonging to a recognised political party. In 1985, when elections were due to be held in Punjab, such an amendment was carried out through an Ordinance which was, however, subsequently allowed to lapse. This question was also examined by the Electoral Reforms Committee set up in 1990 under the Chairmanship of then Minister of Law and Justice. The Committee recommended substitution of section 52 and a provision to this effect had been included in the Representation of the People (Amendment) Bill, 1990, which is pending in the Rajya Sabha.

2. Meanwhile, general elections were announced in Punjab. In view of the situation prevailing in Punjab and in order to prevent the possible disruption of the election process and the danger to the lives of the contesting candidates, it was considered imperative to amend section 52 of the Representation of the People Act, 1951, by means of an Ordinance. The said Ordinance was accordingly promulgated by the President on 4th January, 1992.

3. The Bill seeks to replace the aforesaid Ordinance.

NEW DELHI;

The 21st February, 1992.

K. VIJAYA BHASKAR REDDY.

SUDARSHAN AGARWAL

Secretary General.

STATEMENT OF OBJECTS AND REASONS

The atmosphere is becoming worse in Universities functioning under the control of State Governments. Many of the teachers are not interested in teaching. They are engaged in activities other than teaching. In the interest of students, some concrete steps should be taken to maintain standard of teaching in Universities and colleges.

It is, therefore, proposed to amend the University Grants Commission Act, 1956 with a view to fixing minimum hours of teaching and to regulate the leave of absence of the teachers. A provision has also been made for refusal of grant to defaulting Universities by the Commission.

Hence this Bill.

NEW DELHI;

February 14, 1992.

RAMBADAN.

BILL No. 49 OF 1992

A Bill to provide for compulsory voting by the electorate in the country.

BE it enacted by Parliament in the Forty-Third year of the Republic of India as follows:—

Short title and extent.

1. (1) This Act may be called the Compulsory Voting Act, 1992.

(2) It extends to the whole of India.

Compulsory voting by voters.

2. It shall be compulsory for every voter, who is eligible to vote at an election, to exercise his right to vote when called for by the Election Commission:

Provided that a voter may be exempted from exercising his vote when he is physically incapacitated from an illness of a serious nature and produces a medical certificate from a registered medical practitioner testifying to such incapacity:

Provided further that a voter may also be exempted from exercising his vote if he is away from the place where he is registered as a voter for some urgent unavoidable cause to the satisfaction of the Magistrate of the area where he is registered as a voter.

Penalty for failure to cast vote.

3. (1) Any person, who fails to cast his vote for the first time shall be liable to a fine of rupees one hundred or one day's simple imprisonment or with both in case of deliberate avoidance.

(2) Any person who deliberately fails to cast his vote for the second time shall be liable to a fine of rupees one thousand or one month's rigorous imprisonment or with both and shall also be not allowed to contest any election for a period of five years from the date of his sentence.

STATEMENT OF OBJECTS AND REASONS

Ten general elections have so far been held in the country besides several elections to the State Assemblies. The most discernible feature of these elections has been that the number of voters who actually cast their votes is far less than those eligible. The voting percentage is around fifty. Since there has been no appreciable increase in the percentage of voting, it is necessary that it should be made compulsory for all citizens to vote so that the final results of elections reflect the will of the whole electorate and not that of a section of it.

The Bill seeks to achieve the above objective.

NEW DELHI;
February 17, 1992.

MORESHWAR SAVE.

BILL NO. 53 OF 1992

A Bill to provide for reservation of posts in Government services for blind and disabled person and for matters connected therewith.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

Short
title.

1. This Act may be called the Reservation of Posts in Government Services (For Blind and Disabled Persons) Act, 1992

Defini-
tions.

2. In this Act, unless the context otherwise requires,—

(a) “blind person” means a person who is blind according to the following standards :—

(i) total absence of sight; or

(ii) visual equity (with correcting lenses) not exceeding 20/200 or 6/60 (snellen) in the better eye; or

(iii) angle of vision subtending 200 or less in the better eye;

(b) “disabled person” means any person who suffers from any physical or mental disablement to such a degree that he is seriously limited in the extent to which he can engage in the activities, pursuits and processes of everyday life; and

(c) "Government service" means services under the Central Government and in public undertakings owned either wholly or partially by the Central Government.

3. The Central Government shall make arrangements, as they consider necessary, for blind or disabled persons to—

Training,
etc. for
blind and
disabled
persons.

(i) undergo assessment and undertake training for employment;

(ii) receive education or technical training with a view to getting employment; and

(iii) obtain practical experience necessary in each case to qualify for undertaking any employment that, in the opinion of the Government, is suitable having regard to any educational qualifications, skill or aptitude of that blind or disabled person.

4. The Central Government shall reserve one per cent. of posts for blind persons and two per cent. of posts for disabled persons in such Government services as the Central Government may determine.

Reserva-
tion of
posts in
Govern-
ment
services.

5. (1) The Central Government shall lay an annual report, as regards the implementation of the provisions of this Act, on the Table of each House of Parliament.

Annual
Report.

(2) The Report to be laid before each House of Parliament under sub-section (1) shall contain the following information:—

(i) the total number of vacancies in Government services;

(ii) the number of vacancies filled by blind and disabled persons during the year;

(iii) the measures taken by the Central Government in regard to providing training, etc. to the blind and disabled persons.

6. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power
to make
rules.

STATEMENT OF OBJECTS AND REASONS

The blind and disabled persons are undergoing many difficulties as sufficient care is not taken by their family members. The blind and disabled persons undergo mental torture at times and commit suicide also whenever they are not able to bear the difficulties.

Therefore, the Government should come forward to help the blind and disabled persons by providing them training in some vocation and also by reserving posts for them in the Government services.

The Bill seeks to achieve the above objective.

NEW DELHI;

February 18, 1992.

MORESHWAR SAVE.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government shall make arrangement for providing training, education, practical experience, etc. to blind and disabled persons so as to enable them to get employment. Clause 5(1) provides for preparation and laying of an annual report regarding implementation of provisions of the Bill on the Table of each House of Parliament. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure to the tune of rupees twenty lakhs is likely to be involved.

A non-recurring expenditure of about rupees five lakhs is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. Since the rule will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL No. 50 OF 1992

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows :—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1992.

Substitution
of new arti-
cle for
article 347.

2. For article 347 of the Constitution, the following article shall be substituted, namely :—

Special
provision
relating to
language
spoken by a
section of
the popu-
lation of a
State.

“347. On a demand being made in that behalf by any linguistic minority within a State, the President shall direct that such language shall also be recognised throughout that State, or any part thereof for such purposes as he may specify:

Provided that no such recognition shall be granted unless ten per cent. population of that State or a district or a block within that State speak that language and that language has been specified in the Eighth Schedule or recognised in that State as a medium of instruction at the primary stage of education.

Explanation.—In this article, the expression “population” means the population as ascertained at the last preceding decennial census of which the relevant figures have been published.”.

3. For article 350A of the Constitution, the following article shall be substituted, namely :—

Substitution of new article for article 350A.

“350A. Every State and every local authority within the State shall provide adequate facilities for using the mother-tongue as medium of instruction at the primary stage of education and for teaching the mother-tongue as the compulsory first language at the secondary stage of education to children belonging to the linguistic minority and the President may issue such directions to any State as he considers necessary or proper for securing the provision of such facilities.”.

Facilities for instruction in mother-tongue in schools.

STATEMENT OF OBJECTS AND REASONS

No State in India is linguistically homogeneous. Every State/Union territory in India has linguistic minorities, speaking languages included in the Eighth Schedule to the Constitution or not. Even these languages which are spoken by vast majorities in one State, form linguistic minorities in the other States. Within a State, concentration varies from one part of the State to another. All linguistic minorities would like their languages to be used in education and administration, as they face the threat of assimilation by the major linguistic group, if their mother-tongues are not taught or so used.

The constitutional position is not clear. In article 347 of the Constitution, the word 'substantial' gives rise to ambiguity, while article 350A is not mandatory. Thus, linguistic conflicts have remained unresolved and simmering; conflicts can at times reach explosive proportions.

In order to avoid conflict, a uniform national policy on the place of minority languages is essential. The Bill proposes that for purposes of administrative use, the block should be the unit and the criterion should be whether a given linguistic group forms ten per cent. of its population. Ten per cent. as a cut-off point appears reasonable and administratively feasible. Similarly, it should be mandatory for the State to provide primary education through the medium of the mother-tongue and to teach it at the secondary level, as the compulsory first language. These steps will guarantee that the minority languages continue to flourish and national integration is promoted.

Hence this Bill.

NEW DELHI;

SYED SHAHABUDDIN.

February 19, 1992.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provide facilities for instruction in the mother-tongue and in other subjects through its medium to children belonging to linguistic minority in schools. Although this facility is being provided in many places, but for this purpose, more teachers may have to be appointed. In respect of schools in States, the respective States would incur expenditure. In respect of schools in Union territories and schools in other places run by the Central Government, the Central Government would have to incur expenditure from the Consolidated Fund of India. An annual recurring expenditure to the tune of about rupees one crore is likely to be involved.

Non-recurring expenditure to the tune of about rupees twenty-five lakhs is also likely to be involved.

BILL NO. 47 OF 1992

A Bill to provide for the payment of compensation by the State to citizens or their dependents for injury suffered and damage to property in the course of civil disturbance, riot or commotion.

WHEREAS the protection of the life, limb, property and honour of the citizens is a primary responsibility of a State;

AND WHEREAS social violence leading to civil disturbance, riot or commotion is assuming grave proportions;

AND WHEREAS it is just and expedient to provide for payment of compensation by the State to the citizens for injury suffered during civil disturbance, riot or commotion;

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Civil Disturbance Victims Compensation Act, 1992,

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Short
title,
extent
and
com-
mence-
ment.

Definitions.

2. In this Act unless the context otherwise requires,

(a) "appropriate Government" means, the State Government in relation to any of the matters falling within its purview and in respect of any other matter, the Central Government;

(b) "Commissioner" means a Commissioner for the payment of compensation to the victims of a civil disturbance, riot or commotion appointed under section 8;

(c) "compensation" means compensation as provided under section 3;

8 of 1923.

(d) "dependents" means any of the relatives as defined in clause (d) of sub-section (1) of section 2 of the Workmen's Compensation Act, 1923, as amended upto date; and

(e) "schedule" means the schedule annexed to the Railway Accidents (Compensation) Rules, 1950, as amended upto date.

3. If injury is caused to a citizen by an accident or design arising out of or in the course of a civil disturbance, riot or commotion, the appropriate Government shall pay compensation to that citizen in accordance with the provisions of the Act;

Payment of compensation for injury to the victims.

Provided that the appropriate Government shall not be liable to pay compensation—

(a) in respect of any injury to the citizen which has not resulted in his total or partial disablement for a period exceeding thirty days;

(b) in respect of any injury to the citizen whose cause is directly attributable to the citizen having been at the time thereof under the influence of liquor or drugs, the citizen having wilfully disobeyed an order expressly given by the civil authorities for the purpose of securing his safety; the citizen having wilfully removed or disregarded any safety arrangements which he knew and believed to have been provided for the purpose of securing his safety or the citizen having himself participated in the civil disturbance, riot or commotion or committed an act of violence except in self-defence.

4. If damage is caused to the property of a citizen in the course of a civil disturbance, the appropriate Government shall be liable to pay compensation in accordance with the provisions of this Act.

Payment of compensation for damage to property.

5. Nothing contained hereunder shall be deemed to confer any rights to compensation on a citizen in respect of any injury, if he has instituted in a Court of Law, a suit for damages in respect of the injury against any other person or authority; and no suit for damages be maintainable by a citizen in any Court of Law in respect of any injury if he has instituted a claim to compensation in respect of the said injury before a Commissioner appointed under section 8.

Bar to claim compensation for injury/damage.

6. Subject to the provisions of this Act, the amount of compensation for personal injury shall include, at the discretion of the Commissioner, in addition to the amount payable under the schedule, a suitable amount as compensation for pain and suffering caused to the victim.

Amount of compensation for personal injury.

Amount of compensation for loss of property.

7. The amount of compensation for loss of property shall be calculated on the basis of the substitution or replacement cost of market value, as the case may be, of the property.

Appointment of Commissioner.

8. (1) The appropriate Government shall, by public notification, appoint a Commissioner within thirty days of the date of occurrence of a disturbance, riot or commotion which caused injury to any citizen.

(2) The person so appointed shall be a person who has been or is qualified for appointment as a judge of a High Court or has exercised the powers of a District Judge or a District Magistrate or a Chief Judicial Magistrate.

Appointment of ex-officio Commissioner.

9. The appropriate Government may appoint any District Judge or District Magistrate or Chief Judicial Magistrate as an ex-officio Commissioner for determining claims arising out of a civil disturbance, riot or commotion in the area of jurisdiction of such District Judge or District Magistrate.

Inviting claims.

10. The Commissioner shall invite and receive claims from citizens affected in respect of their total or partial disablement or loss of property, and in the case of death from the heirs of the deceased as recognised in the personal law applicable.

Filing of claims.

11. The Commissioner shall notify a date by which the claims must be filed and also specify particulars and the nature of supporting documents required to be filed by the claimants.

Disposal of claims.

12. The Commissioner shall dispose of the claims filed with him within sixty days of the date of filing.

Time within which compensation may be paid.

13. The appropriate Government shall pay the compensation as determined by the Commissioner within thirty days from the date of such determination.

Publication of statement.

14. The Commissioner shall publish a weekly statement of claims disposed of and the amounts awarded as well as a weekly statement of pending claims with him.

Improper payments.

15. Where the Commissioner feels that the payment of compensation has been obtained by any person by fraud or impersonation or other improper means, any amount so paid to or on behalf of such person may be recovered in the manner prescribed by law for the recovery of arrears of land revenue.

Civil authorities to submit particulars of disturbances to Commissioner.

16. The Commissioner may require the civil authorities of the district where the disturbance, riot or commotion took place to submit to him within thirty days of the service of a notice, a statement giving the circumstances leading to the disturbance, riot or commotion and the extent of the loss of life, limb, and property in such occurrence.

Appointment of Committee.

17. (1) The Commissioner may call for the services of one or more persons possessing special knowledge of any matter relevant to the claims, to assist him and may, if he deems fit, appoint a committee consisting of such local citizens to verify the claims filed with him.

(2) The Commissioner may desire a claimant to be examined by a qualified medical practitioner to determine the extent of disablement caused to him.

18. The Commissioner shall have his seat in the area specified in the notification.

Seat of
Commis-
sioner.

5 of 1908.

19. (1) The Commissioner shall have all the powers of a civil court under the Code of Civil Procedure, 1908, for the purpose of taking evidence on oath and of enforcing the presence of witnesses and compelling the production of documents and material objects.

Power of
Commis-
sioner.

(2) Subject to the provisions in sub-section (1), the Commissioner shall have the authority to devise his own procedure for expeditious determination of claims.

20. Any claimant for compensation may make a personal appearance application for any act required to be made or done under this Act or may choose to do so through a legal practitioner or by an official of an insurance company or the representative of a recognised relief committee.

Personal
appearance,
etc.

21. The Commissioner shall send to the appropriate Government, at such time and in such form and to such authority, as may be specified in the notification of appointment, a return specifying the cases of compensation already determined as well as the cases under consideration.

Submis-
sion of
returns.

22. An appeal shall lie to the High Court from the following orders of a Commissioner :—

Appeal.

(a) an order refusing to register a claim for compensation;

(b) an order awarding negligible sum as compensation or disallowing a claim in full; and

(c) an order providing for the disbursement of the amount of compensation among the heirs of a deceased citizen or disallowing the claims of a person claiming to be an heir or a dependent.

23. (1) The Government may make rules to carry out the purposes of this Act.

Power to
make
rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

24. For all matters not covered under this Act, the Workmen's Compensation Act, 1923, as amended from time to time and the rules framed thereunder shall apply *mutatis mutandis* to the claims made under this Act.

Application
of
Workmen's
Compensa-
tion Act,
1923.

STATEMENT OF OBJECTS AND REASONS

Social violence has assumed an endemic form and virulent dimension in our country. Violent disturbances caused by communal, linguistic, ethnic and caste tensions have given rise to deaths and injuries to persons and resulted in loss of property on a mass scale. The Government and the administrative machinery appears to be helpless in the case of such disturbances, unable to prompt the outbreak or to control it by timely and effective action. There have also been widespread allegations of active involvement of the police force itself in acts of violence directed against one community or another. Thus both the efficiency and the impartiality of the State have come to be questioned. The level of injury is thus directly linked to the performance of the State machinery.

The relief provided to the victims by the State has been nominal or inadequate and on a much smaller scale than to those involved in railway, what to speak of air, accidents. The relief is not even comparable to the compensation paid under the Workmen's Compensation Act, 1923, for loss of life or limb and of earning capacity. And what little is done, is an act of charity or of patronage.

At present there is no legal liability on the State either under the Constitution or under the existing laws, to give compensation to the victims of such disturbances, riots and commotion. Many States have enacted such legislation since it is the duty of the State to preserve law and order and to protect life and property. Thus the State has a moral obligation to compensate and rehabilitate the victims.

Social violence is often motivated by a desire to cause economic losses. So adequate compensation would deter such motivation.

Also generous rehabilitation would heal the wounds and make for reconciliation between the communities/groups concerned.

From the constitutional angle, the State is within its competence to pay compensation and to promulgate a uniform scheme for the purpose in order to obviate the charge of discrimination in preferential treatment, as is the case now.

Hence this Bill.

NEW DELHI;
February 19, 1992.

SYED SHAHABUDDIN.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the appropriate Government shall pay compensation to the victims of a civil disturbance, riot or commotion, whenever it occurs. Clause 4 provides that the appropriate Government shall pay compensation for damage caused to the properties of citizens during a civil disturbance, riot or commotion, whenever it occurs. Clause 8 provides that the appropriate Government shall appoint a Commissioner within thirty days of the occurrence of a civil disturbance, etc. Clause 17 provides that the Commissioner may appoint a committee to assist him in disposal of claims made by the victims. The Central Government has to incur expenditure in respect of cases occurring in Union territories. The Central Government shall also have to provide financial assistance to State Governments for carrying out the purposes of the Bill. The Bill, if enacted, would therefore involve expenditure from the Consolidated Fund of India. An annual recurring expenditure of about rupees one crore is likely to be involved.

A non-recurring expenditure of about rupees ten lakhs is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 23 of the Bill gives power to the Central Government for carrying out the purposes of the Bill. The rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

BILL NO. 48 OF 1992

A Bill to amend the Prevention of Insults to National Honour Act, 1971.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

Short
title.

1. This Act may be called the Prevention of Insults to National Honour (Amendment) Act, 1992.

Insertion
of new
section 4.

2. After section 3 of the Prevention of Insults to National Honour Act, 1971, the following section shall be inserted, namely:—

69 of 1971.

Insult to
religious,
linguistic
or ethnic
community.

“4. Whoever, in any public place or in any other place within public view, does any act, individually or collectively with others, which insults, ridicules, imputes disloyalty or treason, questions the constitutional rights, or otherwise brings into contempt (whether by words, spoken or written, or by acts) any religious, linguistic or ethnic community in the country, or any part thereof, as a social group, shall be punished with imprisonment for a term which may extend to ten years, or with fine not exceeding rupees fifty thousand, or with both.”

STATEMENT OF OBJECTS AND REASONS

The Prevention of Insults to National Honour Act, 1971, provides for legal penalties for any act which insults or brings into contempt the Constitution of India or the National Flag. There have been increasing instances of whole communities, which constitute the people of India, being insulted or ridiculed or brought into contempt, through words and deeds, imputing disloyalty or treason and questioning their rights as citizens. Such words and deeds not only vitiate the social atmosphere but also militate against the process of national integration. The wholesale condemnation of any community in India is thus an anti-national act. National honour demands that no community should be subjected to dishonour or insult and that the honour of any community should be protected.

Hence this Bill.

NEW DELHI;
February 19, 1992.

SYED SHAHABUDDIN.

BILL No. 55 OF 1992

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

Short
title
and
commence-
ment.

1. (1) This Act may be called the Constitution (Amendment) Act, 1992.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amend-
ment of
article
269.

2. In article 269 of the Constitution,—

(i) in clause (1), sub-clause (h) shall be omitted; and

(ii) in clause (3), the words, “or consignment of” shall be omitted.

Insert-
tion of
new
article
272A.

3. After article 272 of the Constitution, the following article shall be inserted, namely:—

Taxes
levied
and col-
lected by
the
States.

“272A. Taxes on the consignment of goods (whether the consignment is to the person making it or to any other person), where such consignment takes place in the course of inter-State trade or commerce, shall be levied and collected by the State within which such consignment originates and the net proceeds of such taxes collected in any financial year shall be utilized for the execution of development projects in that State.”.

4. In the Seventh Schedule to the Constitution,—

Amend-
ment of
Seventh
Schedule.

(i) in List I—Union List, entry 92B shall be omitted; and

(ii) in List II—State List, after entry 54, the following entry shall be inserted, namely:—

“54A. Taxes on consignment of goods (whether the consignment is to the person making it or to any other person), where such consignment takes place in the course of inter-State trade or commerce.”.

STATEMENT OF OBJECTS AND REASONS

The legislation to levy a tax on consignment of goods has not yet been enacted by the Parliament despite the consensus arrived at in the National Development Council meeting held in the year 1990. Therefore, the States are losing heavily a substantial tax revenue on account of branch transfer of steel, fertiliser, aluminium, etc. The power to levy and collect taxes on the consignment of goods and also to exempt certain goods from taxation should lie with the concerned State Governments so as to safeguard the interests of the respective States.

Hence this Bill.

NEW DELHI;
February 25, 1992.

ARJUN CHARAN SETHI.

BILL NO. 56 OF 1992

A Bill to provide for population control through compulsory sterilisation of certain persons; measures for promoting small family norm and for matters connected therewith.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Population Control Act, 1992.

Short
title
and
commence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires, “appropriate Government” means the Central Government in relation to Union Territories and the State Government in relation to a State.

Defini-
tion.

3. Either husband or wife in the case of every married couple who have two or more than two living children, on the date of coming into force of this Act, or whose second living child is born after the commencement of this Act, shall be required to undergo compulsory sterilisation:

Compul-
sory steri-
lisation.

Provided that the husband or wife shall not be required to undergo sterilisation if he or she is above the age of fifty years.

Minimum gap between birth of two children.

4. Subject to the provisions of this Act there shall be a gap of not less than five years between the birth of two children.

Provision of benefits to persons who undergoes sterilisation voluntarily.

5. If either the husband or the wife in the case of a married couple, who have only one child on the date of commencement of this Act, voluntarily undergo sterilisation, the appropriate Government shall provide them with the following benefits, namely:—

(i) supply of essential commodities such as wheat, milk, sugar etc. at concessional rates.

(ii) free education including higher education to the first child and to the second child, if any, born within one year from the date of commencement of this Act;

(iii) suitable employment to such child after he completes his education; and

(iv) such other benefits as may be prescribed by rules made under this Act.

Introduction of compulsory subject relating to population control in educational institutions.

6. The appropriate Government shall introduce a compulsory subject relating to population control in all educational institutions for all children who have attained the age of fifteen years, irrespective of class in which they are studying and the course they are pursuing.

Minimum age for solemnisation of marriages.

7. No marriage shall be solemnised between a male, who is less than twenty-five years of age, and a female, who is less than twenty-two years of age.

Constitution of National Population Control Fund.

8. (1) There shall be constituted a fund to be called the National Population Control Fund by the Central Government.

(2) The Central Government and every State Government shall contribute to the fund in such ratio as may be determined by the Central Government.

Utilisation of the fund.

9. The fund constituted under section 8 shall be utilised for the following purposes, namely:—

(i) giving of national population control award to that State or Union territory which has recorded least population growth rate during the year; and

(ii) giving of national population control certificate to a person or an organisation which, in the opinion of the Central Government, has contributed in awakening the masses towards importance of population control and adoption of various methods for population control.

10. (1) Any person who is serving in connection with affairs of the Union Government or in any undertaking or organisation under the control of the Union Government and who has only one living child or who has not procreated any child or who is unmarried on the date of coming into force of this Act, shall give an undertaking that he shall not procreate more than one living child.

Special provisions relating to Government employees.

(2) Any person violating the provisions of sub-section (1) shall be subject to such disciplinary action as may be determined by the Central Government.

11. Any person violating the provisions of this Act shall be punished with rigorous imprisonment for a term which shall be not less than four years and with fine which shall be not less than rupees five thousand.

Punishment.

12. The provisions of this Act shall apply notwithstanding anything contained to the contrary in any other law for the time being in force.

Act to have overriding effect.

13. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Rapid increase in the population has given birth to many socio-economic problems like poverty, food and housing shortages, unemployment and environment pollution. We are the second highest populous country after China. Although China has controlled the rapid growth in its population, it is estimated that our population by the end of this century will cross 100 crores. If the present trend continues, it will not be possible for us to recover from socio-economic problems which would occur due to rapid increase in population. It is, therefore, imperative that certain effective steps should be taken to check the increasing growth of our population. Since our resources are limited, proper upbringing of children is possible only if the size of the family is limited. Despite the existence of various birth control measures and various family planning programmes, motivating people to accept these birth control methods, the problem of over population still remains.

The Bill, therefore, seeks to make sterilisation compulsory for all persons having two or more than two children. It also provides for certain measures like fixing the minimum age for marriages, minimum gap between two children, etc. for promoting small family norms in the future generation.

NEW DELHI;

February 26, 1992.

BHAGWAN SHANKAR RAWAT.

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for certain benefits to be given to those who undergo sterilisation voluntarily. Clause 6 provides for introduction of compulsory subject relating to population control in all educational institutions. Clause 8 provides for establishing National Population Control Fund to which the Central Government shall also contribute. The Central Government shall have to incur some expenditure for implementing the provisions of this Act in respect of Union territories. The State Governments will incur expenditure in respect of their States out of their respective Consolidated Funds. The Bill, therefore, will involve an annual recurring expenditure of about rupees ten crores out of the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Government to make rules for carrying out the provisions of the Bill. As the rules to be made relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 51 OF 1992

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1992.

Amend-
ment of
article 292.

2. In article 292 of the Constitution, the following proviso shall be added at the end, namely:—

“Provided that the total of such borrowings from any international or multilateral financial institutions or foreign banks during any year shall not exceed five per cent. of the gross domestic product of India calculated in the year previous to the year in which such borrowing takes place”.

STATEMENT OF OBJECTS AND REASONS

Article 292 of the Constitution gives power to the Union Government to borrow upon the security of the Consolidated Fund of India. Under this provision, the Union Government has taken massive loans from international financial institutions as well as from foreign commercial banks, sometimes at the cost of national freedom of action on economic matters.

Article 292 also provides that the Parliament may fix a limit on such borrowing but, unfortunately, no such limit has been prescribed so far. Unrestricted borrowing is detrimental to the interests of the nation. Thus there is an urgent need for prescribing a reasonable limit in the Constitution itself on borrowing by the Government. It is felt that a limit of five per cent of the gross domestic product in the previous year is a reasonable limit in this regard.

Hence this Bill.

NEW DELHI;
February 27, 1992.

SYED SHAHABUDDIN.

C. K. JAIN,
Secretary-General.

